

HOUSE BILL 565

C7

EMERGENCY BILL

11r1196
CF SB 512

By: **Allegany County Delegation**

Introduced and read first time: February 9, 2011

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Terminals**

3 FOR the purpose of prohibiting the Video Lottery Facility Location Commission from
4 awarding a video lottery operation license for a location in Allegany County
5 unless an applicant agrees to purchase the Rocky Gap Lodge and Resort;
6 authorizing an individual or business entity that has been awarded or issued a
7 video lottery operation license to own an interest in a video lottery facility in
8 Allegany County, subject to certain approvals; restricting access to a video
9 lottery facility in Allegany County from the Rocky Gap Lodge and Resort if
10 video lottery terminals are permanently located in the Rocky Gap Lodge and
11 Resort; requiring the holder of a video lottery operation license in Allegany
12 County to provide for meeting space in the Rocky Gap Lodge and Resort under
13 certain circumstances; waiving the initial license fee for an application
14 submitted for a video lottery operation license in Allegany County for up to a
15 certain number of video lottery terminals; providing that the calculation of the
16 direct investment requirement for an application submitted for a video lottery
17 operation license in Allegany County shall include the purchase price of the
18 Rocky Gap Lodge and Resort, subject to a determination by the Video Lottery
19 Facility Location Commission; repealing certain obsolete provisions; making
20 this Act an emergency measure; and generally relating to the operation of video
21 lottery terminals in the State.

22 BY repealing and reenacting, with amendments,
23 Article – State Government
24 Section 9–1A–05(a) and (d), 9–1A–11(d), 9–1A–27(a) and (b), and 9–1A–36(h)(1)
25 and (j)
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2010 Supplement)

28 BY repealing and reenacting, without amendments,
29 Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–1A–11(b) and (c)
2 Annotated Code of Maryland
3 (2009 Replacement Volume and 2010 Supplement)

4 Preamble

5 WHEREAS, The Rocky Gap Lodge and Resort in the Rocky Gap State Park was
6 originally constructed as a family–friendly tourist destination and as an economic
7 development and employment opportunity for the residents of Allegany County and
8 neighboring counties; and

9 WHEREAS, The State of Maryland and Allegany County have invested
10 significant resources in developing and maintaining the Rocky Gap Lodge and Resort
11 as a destination location for both Maryland residents and out–of–state visitors; and

12 WHEREAS, Recognizing the unique challenges facing the continued viability of
13 the Rocky Gap Lodge and Resort, the General Assembly selected a location within the
14 Rocky Gap State Park in Allegany County as one of the five locations for video lottery
15 terminals in the State, which was subsequently approved by the voters of the State;
16 and

17 WHEREAS, While the addition of video lottery terminals at the Rocky Gap
18 Lodge and Resort will provide much needed revenues to the State and Allegany
19 County, it is still desired that Rocky Gap remain a family–friendly resort and area;
20 and

21 WHEREAS, It is in the best interests of the State of Maryland and Allegany
22 County to have a successful video lottery facility, hotel, and resort at Rocky Gap; now,
23 therefore,

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – State Government**

27 9–1A–05.

28 (a) The Video Lottery Facility Location Commission established under §
29 9–1A–36 of this subtitle may not:

30 (1) award more than five video lottery operation licenses;

31 (2) award more than 15,000 video lottery terminals for operation at
32 video lottery facilities in the State; [and]

33 (3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle,
34 award more than 4,750 terminals for operation at any video lottery facility; AND

1 **(4) FOR A LOCATION IN ALLEGANY COUNTY, AWARD A VIDEO**
2 **LOTTERY OPERATION LICENSE TO AN APPLICANT THAT DOES NOT AGREE TO**
3 **PURCHASE THE ROCKY GAP LODGE AND RESORT.**

4 (d) (1) In this subsection, “owner” includes any type of owner or
5 beneficiary of a business entity, including an officer, director, principal employee,
6 partner, investor, stockholder, or beneficial owner of the business entity and,
7 notwithstanding any other provisions of this subtitle, including a person having any
8 ownership interest regardless of the percentage of ownership interest.

9 (2) **[An] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
10 **SUBSECTION, AN** individual or business entity may not own an interest in more than
11 one video lottery facility.

12 (3) A member of the Senate of Maryland or the House of Delegates
13 may not be an owner or an employee of any business entity that holds a video lottery
14 operation license.

15 (4) Notwithstanding paragraphs (1) and (2) of this subsection, an
16 individual or business entity **THAT HAS BEEN AWARDED OR ISSUED A VIDEO**
17 **LOTTERY OPERATION LICENSE UNDER THIS SUBTITLE** may **OWN AN INTEREST IN**
18 **OR** enter into a management agreement to operate a facility located in Allegany
19 County [that it does not own], subject to the approval of the Video Lottery Facility
20 Location Commission and the State Lottery Commission.

21 9-1A-11.

22 (b) (1) Except as provided in paragraph (2) of this subsection, a licensee
23 shall commence operation of video lottery terminals in a permanent facility at the
24 location for which the video lottery operation license has been awarded within 18
25 months after the license is awarded.

26 (2) (i) On a determination by the Commission that extenuating
27 circumstances exist that are beyond the control of an awardee and have prevented the
28 awardee from complying with the requirements of paragraph (1) of this subsection, the
29 Commission may allow the awardee an extension of 6 months to comply with the
30 requirements.

31 (ii) The Commission may not grant more than two extensions to
32 an awardee under this paragraph.

33 (3) If a video lottery operation awardee fails to comply with the
34 requirements of this subsection, the license awarded to the awardee shall be revoked
35 and shall automatically revert to the State.

1 (c) (1) Nothing in this subtitle may be construed to prohibit a video
2 lottery operation licensee that is issued a license from beginning video lottery terminal
3 operations in a temporary facility that meets the minimum requirements established
4 in regulations adopted by the State Lottery Commission.

5 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
6 a video lottery operation licensee shall be operational in a permanent facility no later
7 than 30 months after the award of the video lottery operation license.

8 (d) (1) For a location in Allegany County, [video lottery terminals may be
9 temporarily] **IF VIDEO LOTTERY TERMINALS ARE PERMANENTLY** located in the
10 Rocky Gap Lodge and Resort [until a permanent facility is constructed, subject to the
11 requirements of subsection (b) of this section], **THE LICENSEE SHALL RESTRICT**
12 **PUBLIC ACCESS TO THE VIDEO LOTTERY FACILITY FROM THE ROCKY GAP**
13 **LODGE AND RESORT.**

14 (2) (I) **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**
15 **FOR A LOCATION IN ALLEGANY COUNTY, IF VIDEO LOTTERY TERMINALS ARE**
16 **PERMANENTLY LOCATED IN THE ROCKY GAP LODGE AND RESORT AND**
17 **EXISTING MEETING SPACE IS ELIMINATED AS A RESULT OF THE VIDEO LOTTERY**
18 **TERMINALS, THE LICENSEE SHALL PROVIDE FOR MEETING SPACE THAT IS**
19 **ACCESSIBLE FROM THE ROCKY GAP LODGE AND RESORT WITHIN 36 MONTHS**
20 **AFTER ISSUANCE OF THE VIDEO LOTTERY OPERATION LICENSE, SUBJECT TO**
21 **THE APPROVAL OF THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND**
22 **THE STATE LOTTERY COMMISSION.**

23 (II) **THE LICENSEE SHALL RESTRICT PUBLIC ACCESS TO**
24 **THE VIDEO LOTTERY FACILITY FROM ANY MEETING SPACE PROVIDED UNDER**
25 **SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

26 9-1A-27.

27 (a) On a properly approved transmittal prepared by the Commission, the
28 Comptroller shall pay the following amounts from the proceeds of video lottery
29 terminals at each video lottery facility:

30 (1) 2% to the State Lottery Agency for costs as defined in § 9-1A-01 of
31 this subtitle;

32 (2) except as provided in subsection (b) of this section, to the video
33 lottery operation licensee, the percentage stated in the accepted application for the
34 location, not to exceed 33%;

35 (3) 5.5% in local impact grants, in accordance with § 9-1A-31 of this
36 subtitle;

1 (4) 7% to the Purse Dedication Account established under § 9–1A–28
2 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

3 (5) (i) Except as provided in item (ii) of this item, for the first 8
4 years of operations at a video lottery facility, 2.5% to the Racetrack Facility Renewal
5 Account established under § 9–1A–29 of this subtitle, not to exceed a total of
6 \$40,000,000 to the Account annually;

7 (ii) for the first 5 years of operations at a video lottery facility in
8 Allegany County, 2.5% to the video lottery operation licensee [that satisfies the
9 requirement under subsection (b) of this section] **IN ALLEGANY COUNTY**;

10 (6) 1.5% to the Small, Minority, and Women–Owned Businesses
11 Account established under § 9–1A–35 of this subtitle; and

12 (7) the remainder to the Education Trust Fund established under §
13 9–1A–30 of this subtitle.

14 (b) For the first 5 years of operations at a video lottery facility in Allegany
15 County, the Comptroller shall pay to the video lottery operation licensee **IN**
16 **ALLEGANY COUNTY**, on a properly approved transmittal prepared by the
17 Commission, the percentages authorized in subsection (a)(2) and (5)(ii) of this section
18 as stated in the accepted application for the location[, if the applicant that is awarded
19 the video lottery operation license agrees to purchase the Rocky Gap Lodge and
20 Resort].

21 9–1A–36.

22 (h) (1) In order to qualify for a video lottery operation license under this
23 section, a proposed video lottery facility shall be located in one of the following
24 counties:

25 (i) a location in Anne Arundel County, within 2 miles of MD
26 Route 295;

27 (ii) a location in Cecil County, within 2 miles of Interstate 95;

28 (iii) [except as provided in § 9–1A–11(d) of this subtitle,] a
29 location on State property associated with the Rocky Gap State Park in Allegany
30 County [that shall be in a separate building that may be adjacent or connected to the
31 Rocky Gap Lodge and Golf Resort];

32 (iv) a location in Worcester County, within 1 mile of the
33 intersection of Route 50 and Route 589; or

34 (v) a location in Baltimore City that is:

1. located:
 - A. in a nonresidential area;
 - B. within one-half mile of Interstate 95;
 - C. within one-half mile of MD Route 295; and
 - D. on property that is owned by Baltimore City on the date on which the application for a video lottery operation license is submitted; and
2. not adjacent to or within one-quarter mile of property that is:
 - A. zoned for residential use; and
 - B. used for a residential dwelling on the date the application for a video lottery operation license is submitted.

12 (j) (1) (I) [An] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF**
13 **THIS PARAGRAPH, AN** application submitted for a video lottery operation license
14 under this section shall include an initial license fee in the application of at least
15 \$3,000,000 for each 500 video lottery terminals included in the application.

16 (II) **FOR AN APPLICATION SUBMITTED FOR A VIDEO**
17 **LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE INITIAL LICENSE**
18 **FEE FOR UP TO 500 VIDEO LOTTERY TERMINALS SHALL BE WAIVED.**

19 (2) All initial license fees submitted under this subtitle shall accrue to
20 the Education Trust Fund established under § 9-1A-30 of this subtitle.

21 (3) (I) An application submitted for a video lottery operation
22 license under this section shall provide for at least \$25,000,000 in direct investment by
23 the applicant in construction and related costs for each 500 video lottery terminals
24 contained in the proposed application that shall be prorated based on the exact
25 number of video lottery terminals contained in the application.

26 (II) **FOR AN APPLICATION SUBMITTED FOR A VIDEO**
27 **LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE PURCHASE PRICE**
28 **FOR THE ROCKY GAP LODGE AND RESORT SHALL BE COUNTED IN THE**
29 **CALCULATION OF THE APPLICANT'S DIRECT INVESTMENT UNDER THIS**
30 **PARAGRAPH, AS DETERMINED BY THE VIDEO LOTTERY FACILITY LOCATION**
31 **COMMISSION.**

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
33 measure, is necessary for the immediate preservation of the public health or safety,
34 has been passed by a yea and nay vote supported by three-fifths of all the members

1 elected to each of the two Houses of the General Assembly, and shall take effect from
2 the date it is enacted.